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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,799	07/16/2004	Harilaos Kavvadias	MH0857US (#90556)	6624
28672 7590 11/14/2008 D. PETER HOCHBERG CO. L.P.A. 1940 EAST 6TH STREET CLEVELAND, OH 44114				
EXAMINER WATKINS III, WILLIAM P				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
11/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,799

Applicant(s)

KAVVADIAS ET AL.

Examiner

William P. Watkins III

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Claims 1, 3, 5-7, 9-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There does not appear to be any support in the specification for the concept of multiple layer strips being formed by folding of a single sheet. Therefore there being no "folds" especially as argued by applicant to exclude Heikaus et al. would appear to be new matter. The rejection using Heikaus et al. is being maintained below in the interest of judicial economy in the event of an appeal, but would be overcome if the "no folds" language in the instant claims is found to be supported in the original specification.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiozzo (EP 0909721 A1) in view of Paulett (U.S. 5,935,681) further in view of Calligarich (U.S. 4,758,297).

Tiozzo teaches non-perforated strips that may be extruded or laminated onto a stretch film that is perforated in areas not covered by the strips (Figure 3, sections 0029 and 0033). The width of the holes may be varied at will (section 0038). Paulett teaches forming a hole with a rim thicker than the thickness of the sheet by melting the film with a heated needle or other mean, so that the rim forms when the melted plastic solidifies (element 26, col. 3, lines 25-40). Calligarich explicitly shows a rim with a thickness greater than the hole and that allows greater tear prevention (Figure 5, col. 4, lines 25-30). The instant invention claims a stretch film with rows of holes with strips laminated between the rows of holes, with the holes in each row extending to the edge of the strips and with a ring thicker than the film thickness formed around the perforations. It would have been within the ordinary skill of the art to have extended the hole size of Tiozzo up to the edge of the strips in view of the teaching to vary the hole size at will. The hole formation may be made by heated perforation (section 0025), which produces a reinforced rim. It further would have been obvious to one of ordinary skill in the art to form a ring with heat around the holes of Tiozzo in order to prevent tearing because of the teachings of Paulett and Calligarich.

4. Claims 1, 3, 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikaus et al. (WO 01/60709 A1, US 2005/0123721 being taken as an equivalent

translation of the WO '709 reference) in view of Paulett (U.S. 5,935,681) further in view of Calligarich (U.S. 4,758,297).

Heikaus et al. teaches a stretch film with strips that are laminated to the film and rows of holes which are perforated using heat between the strips (Figure 2b, sections 0016 and 0009 of the translation). Paulett teaches forming a hole with a rim thicker than the thickness of the sheet by melting the film with a heated needle or other mean, so that the rim forms when the melted plastic solidifies (element 26, col. 3, lines 25-40). Calligarich explicitly shows a rim with a thickness greater than the hole and that is allows greater tear prevention (Figure 5, col. 4, lines 25-30). The instant invention claims rows of holes between non-perforated reinforcing strips with the holes extending up to the edge of the strips and with a ring thicker than the film thickness formed around the perforations. It would have been obvious to one of ordinary skill in the art to have varied the hole size of Heikaus et al. up to the edge of the strips, depending on the need for ventilation, as the reference teaches that the strips will prevent the holes from tearing beyond the edge of the strips (section 006). Use of heated perforation means will produce rims around the holes. It further would have been obvious to one of ordinary skill in the art to form a ring with heat around the holes of Heikaus et al. in order to prevent tearing because of the teachings of Paulett and Calligarich.

5. Applicant's arguments filed 23 July 2008 are moot in view of the new grounds of rejection.

The grounds of rejection given above have been modified with a new reference to explicitly address the thickness of the rim limitation in view of applicant's arguments and declaration evidence. Applicant's arguments regarding the holes extending to the edge of the strips has been addressed previously. The new folded limitation regarding Heikaus et al. is addressed above in the new matter rejection. Applicant continues to argue that both Heikaus et al. and Tiozzo have wrinkles as compared to the instant claimed film that result in less tear resistance. Both references appear to teach bonding of the strip layers to the underlying film without any gaps in the contact surfaces. It is unclear that the product of the instant claims has tear strength that is unexpectedly greater than films of the base references of the rejections, which are the closest prior art. The declaration evidence is merely the opinion of the instant applicant's and is not based on any experimental evidence presented in the declarations. As mentioned before there is no explicit disclosure of wrinkles in either of the base references used in the above rejections. In general applicant argues that the combination of wide holes and rims produces unexpected results. As noted before by the examiner, both of these things alone are expected to reduce tearing, thus together one of ordinary skill in the art would expect combined effects that also reduce tearing. The samples presented have not been considered as evidence as they are not explicitly referenced and introduced by any declaration as to their source and how they were made in comparison to the instant claimed invention (that they follow the teachings of the base references), nor is there any evidence as to their tear strength.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
November 15, 2008

/William P. Watkins III/

Primary Examiner, Art Unit 1794